

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

<div>In re:</div> <div>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</div> <div>as representative of</div> <div>THE COMMONWEALTH OF PUERTO RICO, <i>et al.</i></div> <div>Debtors.¹</div>	<div>PROMESA Title III</div> <div>Case No. 17 BK 3283-LTS (Jointly Administered)</div>
<div>In re:</div> <div>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO</div> <div>as representative of</div> <div>PUERTO RICO ELECTRIC POWER AUTHORITY,</div> <div>Debtor.</div>	<div>PROMESA Title III</div> <div>Case No. 17 BK 4780-LTS</div>
<div>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, and PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY,</div> <div>Movants,</div> <div>v.</div> <div>OFFICIAL COMMITTEE OF UNSECURED CREDITORS, <i>et al.</i></div> <div>Respondents.</div>	

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations.)

**DECLARATION OF FREDERIC CHAPADOS
IN SUPPORT OF JOINT MOTION OF PUERTO RICO ELECTRIC POWER
AUTHORITY AND AAFAF PURSUANT TO BANKRUPTCY CODE SECTIONS
362, 502, 922, AND 928, AND BANKRUPTCY RULES 3012(A)(I) AND 9019 FOR
ORDER APPROVING SETTLEMENTS EMBODIED IN RESTRUCTURING
SUPPORT AGREEMENT AND TOLLING CERTAIN LIMITATIONS PERIODS,
FILED MAY 10, 2019 [ECF NO.1235]**

Pursuant to 28 U.S.C. § 1746, I, Frederic Chapados, hereby declare as follows under penalty of perjury under the laws of the United States of America:

1. I am a Director of Citigroup Global Markets Inc. (“Citi”). Citi has been engaged by the Financial Oversight and Management Board (“Oversight Board”) to advise on a potential transaction involving the transmission and distribution business of the Puerto Rico Electric Power Authority (“PREPA”). As described more fully below, I have been directly involved in that process as the person at Citi directly responsible for this potential transaction (the “Transformation”).

2. I submit this declaration in support of the *Joint Motion of Puerto Rico Electric Power Authority And AAFAF Pursuant to Bankruptcy Code Sections 362, 502, 922, And 928, And Bankruptcy Rules 3012(A)(I) And 9019 For Order Approving Settlements Embodied in Restructuring Support Agreement and Tolling Certain Limitations Periods, Filed May 10, 2019* (the “9019 Motion”). [ECF No.1235]

3. Except as otherwise indicated, I submit this declaration based on my personal knowledge.

4. I have worked at Citi for 12 years in the investment banking division and have spent the last 10 years working with and advising Power and Utilities clients, primarily in North America. I have advised on various mergers and acquisitions related work across the Power and

Utilities sectors, including for regulated transmission and distribution utilities. I have also worked on debt and equity financing transactions for a variety of clients.

5. Citi is a leading investment banking firm with respect to the Power and Utilities sectors. We provide advisory services for a variety of clients, including regulated utilities, merchant generators, renewable developers, pension funds, and financial sponsors, among others. Our services include advising on mergers and acquisitions, strategic alternatives, and capital raising alternatives spanning debt, equity, and structured finance. As an advisor to the Oversight Board, Citi is charged with rendering certain strategic advisory and investment banking services related to PREPA. These services include identifying, evaluating and/or implementing various strategic or financial alternatives for the Oversight Board, including advice on the structure, negotiation strategy, valuation analyses, and other financial matters. With respect to Transformation, these services include providing advice on the structure and terms of a long-term operating agreement involving PREPA's power transmission and distribution assets, and providing advice in connection with that aspect of Transformation that includes a potential "privatization" involving the Company's power generation assets.

6. My responsibilities with respect to Transformation include leading the day-to-day transaction execution, including serving as a primary point of contact for the Oversight Board, the Government, and potential Operators.

I. TRANSFORMATION OF PREPA

7. On January 22, 2018, the Governor of Puerto Rico, Ricardo Rosselló, announced the Government's intent to engage in Transformation by modernizing PREPA through private ownership or operation of the power utility by a private party (an "Operator"). I understand the Oversight Board is fully supportive of this initiative, and the Puerto Rico Fiscal Agency and

Financial Advisory Authority (“AAFAF,” and together with PREPA and the Oversight Board, the “Government Parties”) and the Oversight Board are working cooperatively towards this goal.

8. I understand that the Government Parties’ key objectives in pursuing Transformation and selecting an Operator include, without limitation, delivering low-cost electricity to ratepayers of Puerto Rico, increasing energy resiliency and system reliability, deploying new technologies and more cost-efficient fuel sources, enabling capital investment, ensuring the utility’s financial strength, and implementing industry best-practices.

9. I understand the process for selecting an Operator is proceeding under the direction of the Puerto Rico Public-Private Partnerships Authority (the “P3 Authority”). At the direction of the Oversight Board, and in consultation with AAFAF, Citi is working with the P3 Authority and its advisors on Transformation, as described above.

10. Transformation contemplates that PREPA will enter into a long-term contract with an Operator, who will:

[M]anage and operate the [transmission and distribution system (“T&D”)] and assist with the procurement associated with, and the management and deployment of, federal funds received for the restoration of the T&D system.²

11. The Transformation process is unfolding in four phases: (a) Market Sounding; (b) RFQ; (c) Request for Proposals (“RFP”); and (d) Closing Period.

12. The Market Sounding and RFQ steps have been completed. The RFP has been issued to qualified potential Operators from the RFQ stage, and due diligence is currently ongoing.

13. It is anticipated that potential Operators will submit proposals to the P3 Authority in Q4 2019. The proposals will then be evaluated by the relevant approving parties and their

² *Request for Qualifications, Puerto Rico Electric Power Transmission and Distribution System*, Oct. 31, 2018, at 13 (“RFQ”) (annexed as Exhibit. A).

respective advisors. We anticipate the RFP process will culminate with the selection of the winning Operator by the end of 2019.

14. At this time, Citi anticipates the definitive documentation concerning the Transformation Operator can be finalized and executed, such that the Transformation can be included in a Title III Plan of Adjustment with implementation beginning by June 30, 2020.

II. ESTABLISHING A LEGAL AND ECONOMIC ENVIRONMENT TO FACILITATE TRANSFORMATION

15. In reaching out to the marketplace to identify a potential Operator capable of fulfilling the goals of PREPA's Transformation, we have looked for organizations that combine extensive experience in operating major electrical utility systems, with substantial financial resources.

16. The RFQ described the "profound fiscal crisis" facing Puerto Rico and PREPA. The RFQ further emphasized the devastating impact of Hurricanes Irma and Maria on Puerto Rico and its electric utility, including the prospect of emergency federal aid. The RFQ called for solutions that:

- a. Are cost-effective and forward-looking;
- b. Are resilient and built in accordance with consensus-based codes, specifications and standards;
- c. Harness innovative thinking and best practices from around the world; and
- d. Would contribute to greater economic development, revitalization and growth of Puerto Rico (in alignment with broader Government efforts to achieve fiscal and economic stability.³

17. Based upon my experience, any potential Operator performing the risk-benefit analysis to determine whether to undertake this project would look for a clear picture of the legal,

³ RFQ at 11.

financial, operational and regulatory environments in which it would be operating should its proposal be successful. In particular, a potential Operator would want to understand the legal and financial challenges facing PREPA, including, but not limited to, an understanding regarding the projected costs that will need to be included in PREPA's rates to customers post-closing, including any additional charges to satisfy restructured legacy debt and, ultimately, PREPA's prospects and timing for exiting Title III.

18. I understand the Restructuring Support Agreement ("RSA") regarding PREPA's legacy debt will help facilitate the confirmation of a Title III Plan of Adjustment for PREPA. Therefore, it is my belief that the RSA will help clear the way for Transformation.

Resolution of Legacy Bond Debt

19. The P3 Authority's October 2018 RFQ anticipated that potential investors would be concerned regarding legacy debt:

In addition, confirmation of a Plan of Adjustment in PREPA's Title III case may be required to release liens against PREPA's assets and help ensure that the Project is free and clear of all legacy liabilities.⁴

20. In particular, when preparing their proposals, I anticipate potential Operators will want to understand the extent to which PREPA and its ratepayers will be responsible for payment of PREPA's pre-petition debt obligations and the role of the Operator, if any, with respect to servicing restructured debt obligations.

21. I am advised the RSA would be a significant step towards the resolution of uncertainty regarding PREPA's pre-petition debt obligations. It is also my understanding the RSA contemplates a confirmation order to provide the Operator protection against legacy liabilities of PREPA, in which case approval of the RSA will help resolve uncertainty and therefore further the

⁴ RFQ at 11.

Transformation. In that regard, I note that the RFQ anticipated that the transaction would be considered by the Court:

Similar to Chapter 9 of the U.S. Bankruptcy Code, PROMESA does not include an express provision requiring post-petition contracts to be approved by the Title III Court. The [Operator], however, may wish to seek Title III Court authorization to ensure that the [Operator] receives its bargained-for consideration, and we anticipate that the Title III Court will issue one or more such orders to support the transaction.⁵

I believe the RSA will facilitate a clearer understanding of future financial obligations and responsibilities of PREPA, which will be important to a potential Operator.

22. Finally, in this context, I understand that under the RSA, supporting bondholders have agreed to accept new bonds under a future plan of adjustment that will replace pre-petition obligations and will be serviced from a transition charge based on kilowatt-hour usage that will be added to customer invoices.

23. In finalizing their proposals, potential Operators will want to understand the electricity rates they would need to charge customers to satisfy operating costs, Operator compensation, and other financial obligations of the system, including the new bonds under a Plan of Adjustment. The RSA advances this goal because, as I am advised, the RSA will establish the rate component that will provide an acceptable recovery to supporting bondholders.

Resolution of the Receivership Litigation

24. I also understand that the monoline insurers filed a motion to lift the automatic stay so they could seek a court appointed receiver over PREPA's operations (the "Receivership Motion"). This pending litigation introduces uncertainty and potential disruption into the Transformation process.

⁵ *Id.*

25. I am advised that if the RSA is approved, that would likely result in withdrawal or dismissal of the Receivership Motion and resolve other potential disputes with PREPA's bondholders. I believe this resolution would be an additional benefit to the Transformation process, by eliminating the uncertainty inherent in litigation, and with the appointment of a receiver in particular.

PREPA's Emergence from Title III

26. It is my understanding the RSA is an important step in facilitating PREPA's exit from Title III. In my view, PREPA's emergence from Title III would be important to any potential Operators.

27. In sum, the RSA eliminates uncertainty regarding PREPA's legacy debt liabilities and future financial challenges, which will be important to potential Operators in formulating their responses to the RFP. And, in my view, resolving the Receivership Motion, will eliminate the uncertainties inherent in litigation and receivership, which will also be beneficial to the Transformation. Finally, to the extent the RSA will lead towards confirmation of a Plan of Adjustment and emergence from Title III, which will be an important step leading to Transformation.

Executed on July 2, 2019 in New York, NY

/s/ Frederic Chapados
Frederic Chapados

EXHIBIT A



GOVERNMENT OF PUERTO RICO
Puerto Rico Public-Private Partnerships Authority



REQUEST FOR QUALIFICATIONS

Puerto Rico Electric Power Transmission and Distribution System

RFQ 2018-2

Issued by the Puerto Rico Public-Private Partnerships Authority

Date Issued: October 31, 2018

Responses Due Date: December 5, 2018 at 5:00 PM AST



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Puerto Rico Public-Private Partnerships Authority



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This Request for Qualifications (as defined below) is prepared for informational purposes only and does not purport to be all-inclusive or to contain all the information that a Respondent (as defined below) may desire in investigating the potential transaction. No express or implied warranty is given by the Puerto Rico Public-Private Partnerships Authority or any other agency or instrumentality of the Government of Puerto Rico as to the accuracy or completeness of the information contained herein or otherwise made available in connection with the Project (as defined below).





1. Overview of RFQ and PPP Process

1.1 Introduction

The Puerto Rico Public-Private Partnerships Authority (the “**Authority**”), in collaboration with the Puerto Rico Electric Power Authority (“**PREPA**”), hereby requests Statements of Qualifications (“**SOQs**”) from companies and consortia interested in managing and operating Puerto Rico’s electric power transmission and distribution (“**T&D**”) system, including the administration of federal disaster recovery funding, pursuant to a long-term contract (the “**Project**”).

The Authority and PREPA wish to enter into a public-private partnership (“**PPP**”) with a private sector company or consortium (“**Private Partner**”) in order to achieve the following objectives for the T&D system:

- deliver low-cost electricity to ratepayers of Puerto Rico;
- increase T&D system resiliency, achieving performance in line with mainland U.S. utility median performance, measured via industry-standard “SAIFI” (average number of outages per customer per year) and “SAIDI” (average length of outage per customer per year) metrics;
- increase T&D system reliability;
- deploy new technologies; and
- exercise industry best-practices and operational excellence.

Any natural or legal person, joint venture, partnership or other entity, or consortium thereof, that submits an SOQ in response to this Request for Qualifications (“**RFQ**”) (each, a “**Respondent**”) is encouraged to review the following documents, which are available for download on the Authority’s website at <http://www.p3.pr.gov>, for further background on the Project and the legal framework within which it will be executed:

- PREPA Organic Act, Act No. 83-1941, as amended;
- Public-Private Partnership Authority Act, Act No. 29-2009, as amended (the “**PPP Act**”);
- Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Participatory Public-Private Partnerships Contracts under Act No. 29-2009, as amended (the “**PPP Regulation**”);
- Puerto Rico Energy Transformation and RELIEF Act, Act No. 57-2014, as amended;
- PREPA Revitalization Act, Act No. 4-2016, as amended; and
- Puerto Rico Electric System Transformation Act, Act No. 120-2018, as amended (“**Act 120**”).

In addition, the PREPA Fiscal Plan, certified on August 1, 2018 by the Financial Oversight and Management Board for Puerto Rico (“**FOMB**”), is available at <http://www.oversightboard.pr.gov/documents>. The Financial Information and Operating Data Report for Puerto Rico, dated December 18, 2016, and the New Fiscal Plan for Puerto Rico, certified on October 23, 2018 by the FOMB (the “**Government Fiscal Plan**”), are available at <http://www.aafaf.pr.gov>.



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1.2 Background of Puerto Rico's PPP Program

The PPP Act provides that the public policy of the Government of Puerto Rico (the “**Government**”) is to favor and promote the establishment of PPPs for the development of certain Priority Projects (as defined in the PPP Act) to, among other things:

- further the development and maintenance of infrastructure facilities;
- share with the private sector the risks involved in the development, operation and/or maintenance of such projects;
- improve the services rendered and the functions of the Government; and
- encourage job creation and promote Puerto Rico's socioeconomic development and competitiveness.

The PPP Act provides that the public policy with respect to PPPs must be to maintain such controls as are necessary to protect the public interest yet balance this need for controls with the profit-making purpose of any private operation. The contractual relationship must thus be mutually beneficial, while ensuring the efficient, effective and affordable provision of public goods and services to all citizens.

The Authority was created pursuant to the PPP Act as a public corporation of the Government affiliated with the Puerto Rico Fiscal Agency and Financial Advisory Authority (known by the Spanish acronym “**AAFAF**”). The Authority is designated as the sole government entity authorized and responsible for implementing the Government's public policy on PPPs and for determining the functions, services or facilities for which PPPs are to be established.

The PPP Act and the Authority's procurement process is well organized, transparent and clear. Evidence of the robustness of the framework can be seen in the successful, long-term concession of toll roads PR-22 and PR-5 (2011) and the long-term lease agreement for the Luis Muñoz Marín International Airport (2013).

For each proposed PPP project, the Authority must establish a committee (the “**PPP Committee**”), as provided in the PPP Act, responsible for, among other things: (1) the qualification, evaluation and selection processes of the proposed PPP; (2) establishing the terms and conditions of the long-term agreement awarded to the Private Partner as a result of the process described in this RFQ (the “**RFQ Process**”) and the competitive procurement process that follows the RFQ Process (the “**RFP Process**”) and executed by the Private Partner and PREPA to establish a PPP (the “**PPP Contract**”); and (3) reporting on the procedures followed, among others.

Respondents should note that the PPP Committee has been vested with the authority to negotiate the terms of the PPP Contract. PREPA has been vested with the authority to execute the PPP Contract negotiated by the PPP Committee with a Private Partner, subject to the approval of (i) the Puerto Rico Energy Bureau created by Act 57-2014, as amended, to regulate, monitor and enforce the energy public policy of the Government (the “Energy Bureau”), (ii) the board of directors of each of the Authority and PREPA, (iii) the Governor of Puerto Rico or his delegate and (iv) the FOMB.

1.3 Background on Transformation of the Electric System

On January 22, 2018, Governor Ricardo A. Rosselló announced the Government's intent to transform and modernize the electric system through private ownership, management or operation of PREPA's assets. PREPA had suffered years of underinvestment and substandard management, resulting in significant operational and financial challenges that were exacerbated by Hurricane Irma and Hurricane Maria in September 2017.

On June 20, 2018, Governor Rosselló signed Act 120 into law, with the stated goal of transforming Puerto Rico's energy system into a modern, sustainable, reliable, efficient, cost-effective and resilient system. Act 120 provides the legal framework through which the Authority will determine the PREPA services and facilities that will be subject to PPPs and the PREPA generation assets that may be sold, transferred or assigned to PPPs.



This RFQ is a part of the Government's mission to transform Puerto Rico's electric system. The Authority, together with PREPA and other stakeholders, is developing a process for the transformation of PREPA's generation assets that is expected to be announced in the coming months.

1.4 Function of this RFQ

The Authority is issuing this RFQ pursuant to Section 5 of Act 120 and Section 3 of the PPP Act. This RFQ may be amended at any time through the publication of addenda which will be posted on the Authority's website: <http://www.p3.pr.gov>. Interested parties will be responsible for periodically checking the Authority's website for announcements and publication of relevant information concerning this process, including any addenda.

Prospective Respondents should carefully review Act 120, the PPP Act and the PPP Regulation (each of which is available for download on the Authority's website: <http://www.p3.pr.gov>) and should ensure that, in addition to the terms and conditions of this RFQ, they comply with all applicable provisions set out therein.

The intent of this RFQ is to provide each interested prospective Respondent with sufficient information to enable it to prepare and submit an SOQ for consideration and evaluation by the Authority. This RFQ contains instructions to Respondents and a Form of Respondent Certification, which must be completed in its entirety and submitted to the Authority for the Respondent to be considered for qualification. The completed Form of Respondent Certification, together with all required attachments, will constitute the Respondent's SOQ. The Form of Respondent Certification is attached in **Appendix A**.

This RFQ is being issued to identify those Respondents that meet the minimum requirements necessary to carry out the Project in compliance with Act 120 and the PPP Act, in particular those Respondents that demonstrate:

- experience operating a large electric utility;
- financial strength and capital resources, with significant access to the capital markets; and
- strong technical expertise, with a track record of high-quality operations.

The objective of this RFQ is to enable the PPP Committee to identify Respondents that, based on their SOQ pursuant to this RFQ, are deemed qualified by the PPP Committee to participate in the RFP Process ("**Qualified Respondents**").

In evaluating Respondents, the PPP Committee may disqualify a Respondent for any of the reasons stated in Sections 8.1 (Disqualifying Events) and 8.2 (Other Grounds for Disqualification) of the PPP Regulation, or if the Respondent:

- is ineligible to submit a proposal on one or more grounds specified in Act 120, the PPP Act or the PPP Regulation;
- fails to satisfy the standards established by the PPP Committee with respect to the Respondent's required financial condition, or technical or professional ability and experience (as set forth in Section 4 of this RFQ); or
- fails to comply with the requirements of Sections 9(a) (Applicable Requirements and Conditions for those who wish to be considered as Proponents) and/or 9(d) (Consortia) of the PPP Act, as applicable.

Pursuant to Section 5.4 (Qualification of Proponents (RFQ)) of the PPP Regulation, the PPP Committee reserves the right to limit in its absolute discretion the number of Respondents it considers to be qualified in order to arrive at a shortlist of Qualified Respondents that allows for an orderly procurement.

The Authority reserves the right to terminate the procurement process in whole or in part at any time, for any reason or for no reason, prior to the execution by PREPA of a PPP Contract, without incurring any cost, obligations or liabilities whatsoever. Respondents will not be entitled to an indemnity (including but not limited to



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reimbursement for costs and expenses) from the Authority or PREPA if the Authority decides, in its sole and absolute discretion, to terminate the procurement process related to the Project.

1.5 Definitions

For the purposes of this RFQ, the following defined terms will have the meanings used in the sections indicated below.

Term	Section	Term	Section
AAFAF	1.2	President	2.1.3
Act 120	1.1	Private Partner	1.1
Authority	1.1	Project	1.1
Claim	4.11	PROMESA	2.1.2
Conflict of Interest	4.7	Proposed Electric Sector Regulatory Framework	2.2.3
Control	1.7	Qualified Respondents	1.4
Covered Party	3	Related	1.7
Energy Bureau	1.2	Respondent	1.1
Ethics Guidelines	1.8	Respondent Representative	4.2
Evaluation Criteria	3	Restricted Parties	1.8
FEMA	2.1.3	RFC	1.6
FOMB	1.1	RFC Deadline	1.9
Government	1.2	RFP	1.6
Government Fiscal Plan	1.1	RFP Process	1.2
Key Individuals	3	RFQ	1.1
PPP	1.1	RFQ Process	1.2
PPP Act	1.1	SOQs	1.1
PPP Committee	1.2	Submission Deadline	1.6
PPP Contract	1.2	T&D	1.1
PPP Regulation	1.1	Title III Court	2.1.2
PREPA	1.1	Team Member	1.7

1.6 Process and Schedule

Persons receiving this RFQ that intend to submit an SOQ should so indicate by providing their contact information to the PPP Committee via e-mail at P3TDProject@p3.pr.gov.

The procurement process for the Project is expected to take place in the following stages:

Stage 1 — RFQ Process (Qualification Stage)

The RFQ Process is intended to identify the Qualified Respondents that are eligible to receive the Request for Proposals (“**RFP**”) issued by the Authority and to obtain proposals for the Project.

During this stage Respondents submit their SOQ pursuant to this RFQ.

The RFQ Process is standalone and independent and will be completed once the Qualified Respondents are identified by the Authority and all Respondents have received final notification from the Authority as to the results of the RFQ Process.



Stage 2 — RFP Process (Binding Bid Stage)

The RFP Process is the competitive procurement process that follows the RFQ Process. The RFP Process is intended for Qualified Respondents only and is expected to result in the selection of a Private Partner.

Qualified Respondents that elect to participate in the RFP Process and sign a confidentiality and process agreement (a form of which will be provided to each Qualified Respondent) will have the opportunity to conduct a thorough due diligence of PREPA, including:

- receipt of the RFP for the Project;
- a confidential information memorandum and financial model;
- access to an electronic data room that contains detailed information about the Project;
- site visits;
- management presentations and meetings with PREPA subject matter experts;
- diligence Q&A process with PREPA subject matter experts; and
- receipt of a draft form of PPP Contract, which will include a detailed description of the Project and address all of the rights and obligations of the parties under the PPP Contract.

A more detailed description of the RFP Process, together with a more detailed timetable, will be provided in the RFP.

Stage 3 — Implementation of the PPP Contract

Once the Private Partner and PREPA have executed the PPP Contract, the Project will proceed in accordance with the terms and conditions of the PPP Contract.

Below is a summary schedule of the major activities associated with the procurement process for the Project. The dates and activities are subject to change and may be revised through the issuance of addenda to this RFQ.

October 31, 2018	- Date of issuance and first publication of public notice of RFQ by the Authority.
November 14, 2018	- Deadline for submission of Requests for Clarification with respect to this RFQ by prospective Respondents (" RFC ").
November 20, 2018	- Deadline for the Authority to release responses to RFCs.
December 5, 2018	- Deadline for submission of SOQs (no later than 5:00 pm AST).
January 16, 2019	- Estimated date for notification of Qualified Respondents.

All SOQs must be submitted by no later than December 5, 2018 at 5:00 pm AST (the "Submission Deadline") in the manner set forth in Section 4 of this RFQ.

As described in more detail in Section 4 of this RFQ, the Authority will only accept SOQs delivered by hand. The Authority will not accept SOQs sent by facsimile, electronic mail, telex or other electronic means. The determination of whether an SOQ is submitted before the Submission Deadline will be based on the date and time stamp that each Respondent must ensure it receives from the Authority. It is the sole responsibility of each Respondent to ensure that its SOQ is delivered no later than the Submission Deadline.



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By submitting an SOQ, the Respondent specifically authorizes the Authority, PREPA, the PPP Committee and their respective officers, employees, advisors, counsel, accountants and other consultants and representatives to make any inquiry or investigation to verify the statements, documents and information submitted in connection with such SOQ, and to seek clarification from the Respondent's directors, officers, employees, advisors, counsel, accountants and other consultants and representatives related thereto.

1.7 Consortia

To the extent that any Respondent has formed or proposes to form a consortium to participate in the RFP for this Project, such Respondent should include in its SOQ the identity, role and capabilities of each consortium member and each individual person, partnership, company or legal entity that is formally or informally reviewing the Project and intends to participate as a potential equity investor in the Private Partner that will execute the PPP Contract for this Project ("**Team Member**"). Team Members will include, without limitation, the ultimate owner or holding company of any such investor or, in the case of a managed fund or pension plan, the manager of the fund or pension plan. Each Team Member and its role must be identified in a Respondent's SOQ and cannot be changed without the prior written consent of the PPP Committee.

Except as specifically provided to the contrary in this RFQ, no Team Member may join or participate, directly or indirectly, as a Team Member with more than one Respondent for this Project. Each person or legal entity that participates as a Team Member is responsible for ensuring that no other person or legal entity that is Related (as defined below) to it joins or participates, directly or indirectly, as a Team Member in any other Respondent. Unless otherwise provided herein, any violation of this provision by a Respondent will disqualify such Respondent and each of its Team Members.

A person or company is "**Related**" to another person or legal entity if:

- one may exercise Control (as defined below) over the other; or
- each is under the direct or indirect Control (as defined below) of the same ultimate person or legal entity.

For purposes of this RFQ, a person or legal entity exercises "**Control**" of another if (a) it is the owner of any legal, beneficial or equitable interest in 50% or more of the voting securities in a corporation, partnership, joint venture, other person or entity or (b) if it has the capacity to (i) control the composition of the majority of the board of directors of any such person or entity, (ii) control the decisions made by or on behalf of any such person or entity or (iii) otherwise direct or cause the direction of the management, actions or policies of any such person or entity (whether formally or informally); and the terms "**Controlling**" and "**Controlled**" have corresponding meanings.

Each of the Team Members will ensure compliance with all licensing and other requirements under applicable laws with respect to the services to be provided by such Team Member.

Subject to the requirements and entitlements of the Authority set forth below, submission of an SOQ will not limit a Respondent's ability to add to, substitute or subtract from its Team Members during the procurement process.

The Authority intends to issue the RFP only to Qualified Respondents. If for any reason, after the Submission Deadline and prior to the issuance of the RFP, a Respondent wishes or requires to: (i) change any Team Members listed in the Respondent's SOQ (either by adding new members, removing listed members or substituting new members for listed members), (ii) materially change the ownership or Control of a Respondent or a Team Member or (iii) change the legal relationship between the Respondent and/or its Team Members, such as the creation of a new joint venture, partnership or legal entity that will take the place of the Respondent, then, in each case, the Respondent must submit a written application (with such information as the PPP Committee may require) to the PPP Committee seeking its consent to the proposed change, which consent may be withheld, delayed or conditioned in the sole and absolute discretion of the PPP Committee.



Without limiting the foregoing, the PPP Committee may refuse to consent to a change to a Respondent or its Team Members and/or may disqualify the Respondent from further participation in the procurement process if, in its sole and absolute discretion, (a) the change would result in (i) a less desirable Respondent or less desirable Team Members than that originally proposed in the Respondent's SOQ or (ii) the Respondent or its Team Members being materially different from the Respondent that submitted the SOQ, (b) evaluating the application for a change would delay the qualification process or (c) the PPP Committee deems the change detrimental to the process, the Project, PREPA or the Authority.

1.8 Restricted Parties

The following entities will be deemed "**Restricted Parties**" and neither they nor their respective directors, officers, partners, employees and persons or legal entities Related to them are eligible to participate as Team Members or to otherwise assist any Respondent or Team Member, directly or indirectly, or participate in any way as a director, officer, employee, advisor, counsel, accountant or other consultant or otherwise in connection with any Respondent. Each Respondent will ensure that each Team Member does not use, consult, include or seek advice from any Restricted Party. The following Restricted Parties have been identified:

- Ankura Consulting Group, LLC
- Citigroup Global Markets Inc.
- CPM P.R. LLC
- Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
- Cleary Gottlieb Steen & Hamilton LLP
- Filsinger Energy Partners
- Greenberg Traurig LLP
- ICF International, Inc.
- Rothschild Inc.
- Navigant Consulting, Inc.
- Nossaman LLP
- Norton Rose Fulbright US LLP
- McKinsey & Company, Inc.
- O'Melveny & Myers LLP
- O'Neill & Borges LLC
- Pietrantoni Menendez & Alvarez LLC
- Proskauer Rose LLP
- Rooney Rippie & Ratnaswamy LLP

At all times during the procurement process, Respondents must comply, and must ensure that all persons engaged to provide any type of assistance in connection with the Project are in compliance, with the Authority's Guidelines for the Evaluation of Conflicts of Interest and Unfair Advantages in the Procurement of Public-Private



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Partnership Contracts (the “**Ethics Guidelines**”), which are available for download on the Authority’s website: <http://www.p3.pr.gov>.

Respondents should be aware that the list of Restricted Parties is not exhaustive and that a person that is not included as a Restricted Party may still be prohibited from participating in the Project pursuant to the provisions of the Ethics Guidelines.

Finally, except as to any Restricted Party, the fact that a person provides or has provided services to the Authority, PREPA or AAFAF in matters not related to the Project may not automatically prohibit such person from participating in the Project. To the extent any question exists as to whether such a person is a Restricted Party, the Respondent should consult with the Authority.

1.9 Clarifications and Communications Protocol

Note that a Respondent may submit an RFC to the Authority for explanation or interpretation of any matter contained in this RFQ **no later than 5:00 p.m. AST on November 14, 2018 (the “RFC Deadline”)**. If the Authority provides any clarification as a result of an RFC, it will provide such clarification by means of a written explanation published on the Authority’s website **no later than November 20, 2018**.

Respondents should note the following regarding any RFC:

- any RFC from a Respondent must be made in writing to the email address of the PPP Committee at P3TDProject@p3.pr.gov no later than the RFC Deadline;
- the Authority will not respond to Respondents’ questions or RFCs that are not submitted in accordance with this Section 1.9; and
- any Respondent that has questions as to the meaning of any part of this RFQ or the Project, or who believes that the RFQ contains any error, inconsistency or omission, must submit its concern, in writing, to the PPP Committee in accordance with this Section 1.9.

The Authority may, in its sole and absolute discretion, provide all submitted questions or RFCs, along with the Authority’s answers thereto, without expressly identifying the originator. Any response provided by the Authority other than by way of an addendum issued in accordance with this RFQ will not be binding on the Authority or PREPA, nor will it change, modify, amend or waive the requirements of this RFQ in any way. Respondents may not rely on any response or information provided otherwise.

Respondents may also make inquiries regarding matters they consider to be commercially sensitive or confidential. Respondents must designate such inquiries as “commercially confidential”. If the Authority determines, in its sole and absolute discretion, that an inquiry designated as commercially confidential is of general application or would provide a significant clarification to this RFQ or any process or other matter outlined hereunder, the Authority may issue a clarification to all Respondents via addenda posted to the Authority’s website to address such matter. If the Authority agrees with the Respondent’s designation of an inquiry as commercially confidential, the Authority will provide a response only to the Respondent that submitted the commercially confidential inquiry.

Additional information regarding RFCs and other communications are set forth in Section 4 of this RFQ.

1.10 No Collusion or Lobbying

The Authority and PREPA are committed to a fair, open and transparent selection process.



No Collusion

Respondents and Team Members will not discuss or communicate, directly or indirectly, with any other Respondent(s) or any director, officer, employee, consultant, advisor, counsel, accountant, other consultant or representative or Team Member of any other Respondent regarding the preparation, content or representation of their SOQs. SOQs will be submitted without any connection (*i.e.*, arising through an equity interest (other than an equity interest that does not represent a Controlling interest in an entity, as determined by the Authority from time to time) in or of a Respondent or Team Member), knowledge, comparison of information or arrangement, with any other prospective Respondent or any director, officer, employee, advisor, counsel, accountant or other consultant or representative or Team Member of any other prospective Respondent.

By submitting an SOQ, a Respondent, on its own behalf and as authorized agent of each firm, corporation or individual Team Member of the Respondent, represents and confirms to the Authority, with the knowledge and intention that the Authority may rely on such representation and confirmation, that its SOQ has been prepared without collusion with other Respondents, fraud or unfair advantages. The Authority reserves the right to disqualify any Respondent that does not comply with this provision.

No Lobbying

Respondents, their Team Members and their respective directors, officers, employees, advisors, counsel, accountants and other consultants and representatives will not, except as expressly contemplated by this RFQ or as expressly directed or permitted by the Authority, attempt to communicate directly or indirectly with any representative of the Authority, PREPA, the PPP Committee, AAFAF, the Energy Bureau, the Government, the FOMB or the federal government (other than via an RFC or other official communication following the communications protocol indicated in Section 1 of this RFQ) in relation to the Project or the RFQ Process, at any stage of this RFQ Process, including during the evaluation process. The Authority reserves the right to disqualify a Respondent that does not comply with this provision.

Respondents, their Team Members and their respective directors, officers, employees, advisors, counsel, accountants and other consultants and representatives must certify that they have complied with the requirements of Section 5.16 of the PPP Regulation by completing the Form of Respondent Certification included as Appendix A to this RFQ.



2. Project Description

2.1 Puerto Rico

2.1.1 Overview

Puerto Rico is a self-governing territory of the United States and is located in the Caribbean approximately 1,030 miles southeast of Miami, FL. Puerto Rico has an area of approximately 3,500 square miles and a population estimated at 3.34 million by the United States Census Bureau as of July 1, 2017.

Historically, Puerto Rico has had one of the largest and most dynamic economies in the Caribbean region. As a territory of the U.S. since 1898, Puerto Rico offers a stable legal and regulatory framework where major U.S. and foreign multi-national corporations have operated. Puerto Rico has a well-educated and bilingual workforce, and has been a global center for manufacturing, including in the pharmaceutical, biotechnology, medical devices, agriculture, rum, aerospace and electronics industries, which was complemented by strong consumer, retail and service sectors.

Generally, U.S. federal laws apply in Puerto Rico, and Puerto Rico is subject to the jurisdiction of the U.S. regulatory authorities, including the U.S. Environmental Protection Agency (EPA). Because it is a U.S. territory, the U.S. Federal Deposit Insurance Corporation (FDIC) insures banks operating in Puerto Rico, which are subject to the same federal controls applied to banks operating in the U.S. mainland. The U.S. Securities and Exchange Commission (SEC) regulates all publicly traded securities and commodities.

Key Puerto Rico Facts

Population	3.34 million
Land Area	8,959 sq. km (approx. 3,500 sq. mi)
Currency	U.S. Dollar
Languages	English, Spanish
GDP Per Capita	\$19,140

* Data according to U.S. Census 2017 and the Puerto Rico Planning Board.

2.1.2 Financial Condition and Title III Process

The Government and most of its public corporations are in the midst of a profound fiscal crisis. In June 2015, the Government created a working group tasked with analyzing the fiscal and economic situation of Puerto Rico. After a series of studies and analyses, this working group estimated Puerto Rico's consolidated budget and financing gap (including required pension payments and debt service on tax-supported debt) to be approximately \$59 billion between fiscal years 2017 and 2026. More recent studies show the projected five-year deficit (through fiscal year 2023) at \$34.7 billion.

The Government's balance sheet deterioration, coupled with continued structural budget imbalances between revenues and expenditures, and a lack of continuity and execution capacity in fiscal and economic plans led to the loss of capital markets access in 2015. This limited the Government's ability to make necessary infrastructure investments and to meet scheduled debt service payments.

Recognizing the delicate fiscal condition of Puerto Rico, the U.S. Congress enacted the Puerto Rico Oversight, Management, and Economic Stability Act ("**PROMESA**"), which was signed into law on June 30, 2016. PROMESA provides a series of mechanisms to achieve fiscal and budgetary balance and restore access to the capital markets to spur revitalization of infrastructure in Puerto Rico. PROMESA also established the FOMB, which is tasked with working with the people of Puerto Rico and the Government to create the necessary



foundation for economic growth. The Government Fiscal Plan estimates the Government's consolidated outstanding debt and pension liabilities to be over \$120 billion, with more than \$70 billion in financial debt and more than \$50 billion in pension liabilities.

In July 2017, a voluntary petition for bankruptcy relief was filed on behalf of PREPA, commencing a case under Title III of PROMESA in the U.S. District Court for the District of Puerto Rico (the "**Title III Court**"). Upon the commencement of PREPA's Title III case, an automatic stay on litigation related to the financial indebtedness and other obligations of PREPA immediately went into effect.

The PPP Contract will need to comply with certain federal and local requirements and regulations, including PROMESA, which will be set forth in more detail in the RFP. The PPP Contract will also require the approval of the FOMB pursuant to the FOMB's Contract Review Policy effective as of November 6, 2017, in addition to the approval of others as described in Section 1.2 of this RFQ. The FOMB and its advisors are working closely with the Authority and PREPA throughout this process and are expected to be active participants in the process at all stages.

Similar to Chapter 9 of the U.S. Bankruptcy Code, PROMESA does not include an express provision requiring post-petition contracts to be approved by the Title III Court. The Private Partner, however, may wish to seek Title III Court authorization to ensure that the Private Partner receives its bargained-for consideration, and we anticipate that the Title III Court will issue one or more such orders to support the transaction. In addition, confirmation of a Plan of Adjustment in PREPA's Title III case may be required to release liens against PREPA's assets and help ensure that the Project is free and clear of all legacy liabilities.

2.1.3 Hurricanes and Recovery Efforts

In September 2017, Hurricanes Irma and Maria delivered devastating blows to Puerto Rico, resulting in the largest and most complex disaster response and recovery effort in recent U.S. history. Irma skirted the northern coast of Puerto Rico on September 6 and 7, 2017, as a Category 5 storm, causing significant flooding, regional power and water outages and other damage to Puerto Rico's infrastructure. On September 20, 2017, less than two weeks after Irma and before Irma's response operations had concluded, Maria made a direct strike over Puerto Rico as a Category 4 storm, causing widespread and unprecedented devastation and destruction. Maria resulted in loss of life and massive infrastructure and property damage, and severely affected Puerto Rico's population, economy, critical infrastructure, social service network, healthcare system and the Government.

On September 5 and 17, 2017, Governor Rosselló requested separate federal declarations of emergency and disaster for Puerto Rico in light of the effects of Hurricanes Irma and Maria. These requests were subsequently approved by the President of the United States (the "**President**"), paving the way for federal disaster assistance funding. On October 26, 2017, the President signed the Additional Supplemental Appropriations for Disaster Relief Requirements Act 2017, which provides \$36.5 billion in FY2018 emergency supplemental appropriations to the Federal Emergency Management Agency ("**FEMA**"), the Department of Agriculture and the Department of the Interior, a portion of which has been appropriated for Puerto Rico's energy system in connection with Irma and Maria disaster recovery efforts.

As Puerto Rico looks to the future, it sees the recovery effort as an opportunity not just to rebuild what was damaged, but also to transform Puerto Rico's energy system by implementing solutions that:

- are cost-effective and forward-looking;
- are resilient and built in accordance with consensus-based codes, specifications and standards;
- harness innovative thinking and best practices from around the world; and
- contribute to greater economic development, revitalization and growth of Puerto Rico (in alignment with broader Government efforts to achieve fiscal and economic stability).



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Puerto Rico will move forward in its economic and disaster recovery by investing in infrastructure, people and the environment. Federal funds from FEMA and other government entities will help in achieving this vision. In order to fully deliver on all of the economic, infrastructure and societal goals identified by the Government, private sector creativity and resources will need to be harnessed.

2.2 Electric Power T&D System

2.2.1 PREPA Overview

PREPA is a public corporation and instrumentality of the Government, created pursuant to Act No. 83-1941 of May 2, 1941, as amended. Its purpose is to provide electric power in a reliable manner, contribute to the general welfare and the sustainable development of Puerto Rico and maximize the benefits while minimizing the social, environmental and economic impacts of electric energy generation and distribution. PREPA's current objectives include reducing energy costs, promoting smart energy consumption and protecting the environment.

Strategies to achieve these objectives include:

- reducing operating expenses;
- increasing efficiency;
- minimizing energy theft;
- diversifying energy sources;
- establishing smart grid technologies for energy control and consumption monitoring; and
- maximizing the use of advanced technology.

PREPA has faced significant challenges in recent years including:

- significant leverage;
- a dated electrical system that is in a challenged condition due, in part, to substandard practices and chronic infrastructure underinvestment; and
- the geographic mismatch between supply and demand — much of the generation is located on the south side of the island while a majority of the demand is on the north side of the island, exacerbating the fragility of the whole system.

2.2.2 Current Status of the T&D System

The T&D system interconnects PREPA's power plants with major switching and load centers throughout Puerto Rico. The T&D system currently has 1,115 miles of transmission lines (230 kV and 115 kV), 1,376 miles of subtransmission lines (38kV) and 31,628 miles of distribution lines (13.2 kV through 4.16 kV). The T&D system includes 178 transmission centers, 60 115 kV substations, 279 38 kV substations and 822 private substations.

Even prior to Hurricanes Irma and Maria, the T&D system faced numerous challenges, including a significant lag in technological upgrades, an aging and deteriorated system, high vulnerability to weather conditions, inconsistent customer support and collections operations and limited access to capital markets. The damage caused by Irma and Maria has exacerbated these challenges and raised new ones.



2.2.3 T&D System Transformation

Puerto Rico needs an upgraded grid to increase reliability and resiliency, reduce cost, facilitate distributed generation and allow for economic recovery of the island. Pursuant to Act 120, PREPA is authorized to carry out PPP transactions with respect to any function, service or facility of PREPA, including the T&D system. In turn, Act 120 designates the Authority as the only government entity authorized to determine and to be responsible for the functions, services or facilities for which PPPs will be established, subject to the priorities, objectives and principles established in the energy public policy and regulatory framework to be developed by the Government pursuant to Act 120.

Act 120 set in motion the development of a new regulatory framework for the electric sector. A working group was created under Act 120 to develop a new energy public policy and regulatory framework, in consultation with the Southern States Energy Board and the U.S. Department of Energy, among others. Proposed legislation to establish this new framework for Puerto Rico's energy sector was filed in the Puerto Rico legislature on October 17, 2018 (the "**Proposed Electric Sector Regulatory Framework**"). The Proposed Electric Sector Regulatory Framework is expected to be reviewed and refined by the legislature in the coming months, as provided by Section 9 of Act 120.

2.3 Project Structure

The Project contemplates PREPA entering into a long-term PPP Contract with a Private Partner. Throughout the term of the PPP Contract, the Government will retain ownership of and title to all T&D assets and the Private Partner will manage and operate the T&D system and assist with the procurement associated with, and the management and deployment of, federal funds received for the restoration of the T&D system.

2.3.1 Description

As currently envisioned, a single Private Partner will assume all rights and responsibilities related to the operation, maintenance and management of the T&D system. These rights and responsibilities are expected to include, among other things:

- operation and maintenance of the T&D assets and system, including street lights and meters;
- control center operations, including generation scheduling and economic system dispatch;
- integration of renewable generation and distributed energy resources;
- power procurement;
- end customer metering, service and support (including billing and collections);
- new service requests for secondary and primary connected customers;
- outage management and restoration;
- coordination of emergency planning and storm restoration and recovery;
- interfacing with regulators, including with respect to environmental compliance;
- general system planning, including sourcing, designing and implementing system growth and improvement;
- acting as a servicer in connection with any charges imposed in respect of legacy obligations; and
- ongoing public reporting.



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In addition to the services typically performed by the operator of a T&D system, the Authority intends for the Private Partner to administer the federal disaster recovery funding available for the restoration of the T&D system. Under certain circumstances, the Private Partner may have the opportunity to make capital investments in the T&D system not otherwise paid for by federal disaster recovery funding.

Under the contemplated structure for the Project, the Private Partner's compensation will consist of a regulated base management fee, which will be supplemented by performance payments linked to established performance standards. The Authority is seeking a Private Partner capable of meeting or exceeding established operational and performance standards while complying with applicable rate and performance regulation.

2.3.2 Federal Disaster Recovery Funding

FEMA funds or other federal disaster recovery grant funding will be available to partially finance the restoration of the T&D system; however, the timing and amount of any FEMA or other federal disaster recovery grant proceeds are uncertain.

In the event that the Authority and PREPA advise the Private Partner that FEMA or other federal disaster recovery grant funding will be used for eligible work, the Private Partner will be required to cooperate with the Authority, PREPA and any applicable federal or other public entity partners to the fullest extent possible, including assisting with management of any repair or construction work for the T&D system, if so assigned by the Authority and/or PREPA, and coordination of any necessary elements of the work or grant application process.

Any grant funding made available to the T&D system will be subject to compliance with the terms of each FEMA or other federal disaster recovery grant. If FEMA or other federal disaster recovery grant funding is made available, the Private Partner will be required to comply with the terms and conditions of the applicable grants and sub-grants and the conditions required by the Authority and PREPA in order not to jeopardize the availability of such funding. This may include, but is not limited to, a requirement that the Private Partner execute an agency or similar agreement to facilitate the Private Partner's completion of any repair or construction work that may be assigned on behalf of the Authority and/or PREPA.

In the event that FEMA or other federal disaster recovery grant funding is made available for any repair or construction work for the restoration of the T&D system, such work must be separately procured by or for the account of PREPA in full compliance with the requirements of the PPP Regulation and the procurement rules set forth in 2 C.F.R. Part 200 and applicable to procurement by PREPA. Further, such work may only be awarded to a Team Member of the Private Partner, or to any entity deemed Related to the Private Partner or any Team Member, if that entity responds and is selected pursuant to a properly issued procurement consistent with the PPP Regulation and as consistent with and allowed by the Ethics Guidelines.



3. Respondent Qualification Requirements and Evaluation Criteria

In order to provide an objective and transparent evaluation method, the PPP Committee will evaluate SOQs by applying the criteria outlined in the table below ("**Evaluation Criteria**"). Application of the Evaluation Criteria will assist the PPP Committee in identifying the Qualified Respondents.

Evaluation Criteria	
Part 1	Compliance with Requirements of the PPP Act and Act 120
	<i>Each SOQ submitted pursuant to this RFQ will be reviewed to determine whether it satisfies the requirements under the PPP Act, the PPP Regulation and Act 120 in the following areas:</i>
1.1	Respondents that are corporations, partnerships or any other legal entity, whether based in the U.S., including Puerto Rico, or elsewhere in the world, shall be properly registered, or capable of being properly registered, to do business in Puerto Rico at the time of the execution of the PPP Contract, and shall comply with all applicable Puerto Rico and U.S. laws and/or requirements.
1.2	Each Respondent and each Team Member shall certify that: <p>(a) neither it nor any of its directors, officers, controlling shareholders or subsidiaries, nor its parent company, nor in the case of a partnership, any of its partners, nor any person or entity that may be considered an alter ego or the passive economic agent of the Respondent or Team Member, as applicable, (each, a "Covered Party"), has been convicted, entered a guilty plea, been indicted or had probable cause found for their arrest in any criminal proceeding in Puerto Rico, the rest of the U.S. or any foreign jurisdiction for:</p> <p>(i) any of the crimes referenced in Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico;</p> <p>(ii) any of the crimes typified in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal Code; or</p> <p>(iii) any of the crimes listed in Act No. 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government, or under the U.S. Foreign Corrupt Practices Act; nor is any Covered Party under investigation in any legislative, judicial or administrative proceedings, in Puerto Rico, the rest of the U.S. or any other jurisdiction;</p> <p>(b) it is in compliance and shall continue to comply at all times with all federal, state, local and foreign laws applicable to the Respondent or Team Member(s) that prohibit corruption or regulate crimes against public functions or public funds, including the U.S. Foreign Corrupt Practices Act;</p>



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Evaluation Criteria

1.2
(cont'd)

(c) it completed the SOQ without prior understanding, agreement, connection, discussion or collusion with any other person, firm or corporation submitting or participating in the submission of a separate SOQ or any officer, employee or agent of the Authority, PREPA, the PPP Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico; and

(d) except as provided in Section 1.9 of this RFQ, it shall not attempt to communicate in relation to this RFQ, directly or indirectly, with any representative of the Authority, PREPA, the PPP Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico, including any Restricted Parties or any director, officer, employee, agent, advisor, staff member, counsel, consultant or representative of any of the foregoing, as applicable, for any purpose whatsoever, including for purposes of:

- (i) commenting on or attempting to influence views on the merits of the Respondent's and Team Members' SOQ, or in relation to their SOQ;
- (ii) influencing, or attempting to influence, the outcome of the RFQ Process or of the competitive selection process, including the review and evaluation of SOQs or the selection of the Qualified Respondents;
- (iii) promoting the Respondent and Team Members or their interests in the Project, including in preference to that of other Respondents or Team Members;
- (iv) commenting on or criticizing aspects of this RFQ, the competitive selection process or the Project, including in a manner which may give the Respondent or its Team Members a competitive or other advantage over other Respondents or their respective Team Members; or
- (v) criticizing the SOQs of other Respondents.

Requirements 1.1 and 1.2 may be satisfied by completing the Form of Respondent Certification included as Appendix A to this RFQ.



Evaluation Criteria

Part 2 Background & Team Information (15 pages maximum)

Respondent and Team Member(s) are encouraged to provide enough supporting information and details to enable the evaluators to perform a thorough evaluation of their strengths, roles and responsibilities.

- 2.1 A description of the Respondent and all Team Members that identifies:
 - anticipated roles, functions and overview of business operations;
 - jurisdiction, form of entity organization, ownership structure and capitalization;
 - currently and formerly owned or controlled electric utility operating companies;
 - anticipated legal relationships (e.g., joint ventures, partnerships) and percentage ownership interest;
 - up to five individuals who will play an important role in the Project on behalf of Respondent and Team Member(s) (the “**Key Individuals**”) and their roles;
 - instances, if relevant, in which Respondent and Team Member(s) have previously worked together;
 - evidence of experience carrying out major infrastructure projects;
 - evidence and tenor of operations and management experience in electric power T&D (including experience with system dispatch, power purchase and/or operating agreements); and
 - experience administering FEMA and other federal disaster relief funding.
- 2.2 A list of technical, financial, legal, accounting or other advisors that Respondent or any Team Member has engaged or intends to engage in connection with the Project.
- 2.3 Respondent will be expected to have current or past large-scale electric utility operations and management experience. As such, Respondent or at least one Team Member must demonstrate that its current or previous electric utility operations and management fulfills the following criteria on a sustained basis:
 - at least 250,000 customers;
 - electric utility T&D rate base of at least \$2 billion; and
 - at least 1,000 employees.
- 2.4 Resumes (indicating overall experience and any specific experience relevant to the nature and scope of the Project) for the Key Individuals. It is expected that the anticipated management team will be comprised of individuals with at least ten years of relevant electric utility managerial experience for all executive-level positions.
(One page per resume maximum and resumes will not count towards the overall page count for Part 2)



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Evaluation Criteria

Part 3 Financial Capabilities (10 pages maximum)

The evaluation of financial capabilities will examine each SOQ in accordance with the criteria set out below:

3.1

Financial Capacity of Team: Respondent must demonstrate adequate financial wherewithal to fulfill the terms of the PPP Contract. Each Respondent or, if a consortium, at least one Team Member, must provide:

- evidence of demonstrated track record of earned return on equity (ROE) approximating regulatory authorized return on equity (ROE);
- evidence of experience with formal regulatory proceedings or similar rate justification proceedings in a U.S. or similar regulatory jurisdiction (may be full rate case proceedings or a private rate case settlement);
- credit ratings (if any); and
- copies of audited financial statements, Form 10-Ks or similar types of annual reports for the past two years, together with any other relevant financial information.

(Audited financials & supporting information not included in page count)

3.2

Ability to Raise Financing: Respondent must provide specific evidence demonstrating their ability to raise financing. Specific factors that will be assessed include:

- capability of raising significant quantities of debt and equity in the current capital markets;
- the number and size of past relevant transactions; and
- specific experiences on past relevant transactions.

At a minimum each Respondent or at least one Team Member must provide evidence of at least five debt or equity raises, each of at least \$100 million in proceeds.



Evaluation Criteria

Part 4 Technical & Operational Capabilities (50 pages maximum)

The evaluation of technical capabilities will examine each SOQ in accordance with the criteria set out below:

- 4.1 Respondent must demonstrate its technical and operational capabilities to fulfill the terms of the PPP Contract. Detailed evidence on the following criteria will be required for Respondent or at least one Team Member:
- for the past five years, operational metrics including SAIDI, SAIFI, CAIDI (customer average interruption duration index per the most recent key performance indicators published by the American Public Power Association), and OSHA (Occupational Safety and Health Administration) recordable events within acceptable industry standards for U.S. mainland utilities;
 - track record of sustained customer satisfaction;
 - experience with at least three large scale T&D projects, each with total investment of at least \$50 million;
 - certification of no significant or sustained environmental regulation violations; and
 - sustained history of reasonable customer rates (taking into account any unique local challenges).

Respondent and Team Member(s) should aim to provide sufficient evidence to demonstrate an intimate understanding of the power and electric utility industry, especially as it applies to owning, operating and dispatching large-scale electric utility T&D infrastructure. Operations, maintenance, improvements, vegetation management, customer service, community relations, safety and environmental responsibility should each be a key focus.

- 4.2 Respondent and Team Member(s) should describe their degree of experience:
- coordinating the safe, reliable and economic dispatch of electric utility systems, particularly those with significant reliance on renewable energy resources;
 - negotiating and executing power supply agreements, including tolling, take-or-pay or similar types of power supply agreements;
 - operating electric utility T&D infrastructure on an island or other stranded location in both urban and rural settings and under challenging natural circumstances, such as mountainous regions and dense vegetation growth;
 - operating electric utility T&D infrastructure in a natural disaster-prone region, including hurricanes, flooding, earthquakes and wildfires, and experience with post-event restoration and electrification;
 - system planning taking into account long-term customer demand projections to be met with electric supply, which may include integrated resource planning;
 - managing disaster recovery operations, federal disaster relief funding and relationships with FEMA and other government entities; and
 - operating electric utility T&D infrastructure that incorporates significant and expanding renewable project interconnection requests, generation capacity, distributed generation, advanced grid technology implementation, energy efficiency initiatives, energy storage and micro grids (if any).



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Evaluation Criteria

Part 5 Safety Performance (no page limit)

- 5.1 Respondent and Team Member(s) must demonstrate (a) their ability to address and resolve safety issues and (b) their knowledge of safety strategies and methodologies. Respondent and Team Member(s) must submit copies of the Occupational Safety and Health Administration (OSHA) 300 forms for the past three years, only as related to electric utility operations. If not applicable, Respondent and Team Member(s) must present a document explaining the reasons for not submitting the form.

These may be included in an appendix.





4. SOQ Requirements & Procedure

4.1 SOQ Requirements

Overview of Requirements

A physical copy of the original SOQ must be delivered no later than the Submission Deadline. Prospective Respondents that anticipate responding to this RFQ should so indicate as soon as possible by sending to the e-mail address listed below the necessary contact information. The SOQ must comply with the outline provided under "Required Information for SOQ" below and all other conditions identified in this RFQ. Additional information not specifically related to the Project or this RFQ should not be included in the SOQ. All questions or requests for information regarding this RFQ should be directed to the PPP Committee via e-mail, as provided in Section 1.9 of this RFQ. Please do not contact any officials or related parties of the Authority, PREPA, the PPP Committee, AAFAF, the Energy Bureau, the Government or the FOMB. Such contact may serve as grounds for disqualification.

Address questions, comments, RFCs to:

Puerto Rico Electric Power T&D System PPP Committee

Request for Qualifications

Puerto Rico Electric Power T&D System Project

E-mail: P3TDProject@p3.pr.gov

No Liability for Costs

The Authority, PREPA, other agencies and instrumentalities of the Government and their respective advisors are not responsible for costs or damages incurred by Respondents, Team Members, subcontractors or other interested parties in connection with the solicitation or procurement process, including but not limited to costs associated with preparing responses, qualifications and proposals, and of participating in any conferences, oral presentations or negotiations, whether in connection with this RFQ Process, the RFP Process or otherwise. A Qualified Respondent will not be entitled to indemnity (including, but not limited to, reimbursement for costs and expenses) from the Authority, PREPA or any other agency or instrumentality of the Government if the Authority or PREPA decide, in their discretion, to terminate the procurement process for this Project.

Modification and Termination Rights

The Authority and PREPA reserve the right to modify or terminate the RFQ Process and the RFP Process for this Project at any stage if the Authority or PREPA determines such action to be in the public interest. The receipt of responses or proposals or other documents at any stage of either this RFQ or the RFP Process will in no way obligate the Authority or PREPA to enter into any contract of any kind with any party.



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4.2 Required Information for SOQ

Compliance with this RFQ

The SOQ must be prepared in English and follow the format outlined below. Respondents may opt to submit responses in Word or PowerPoint templates. Responses must comply with the following format:

- Cover Page (to include identification of all management Team Members)
- Cover Letter (two pages maximum)
- Table of Contents
- Executive Summary (two pages maximum)
- The specific requirements as set out in Section 3 of this RFQ:
 - **Part 1: Compliance with the Requirements of the PPP Act and Act 120 (No page limit)**
 - An executed Respondent Certification from the Respondent **and each Team Member**. This Certification must strictly follow the form attached to this RFQ as Appendix A.
 - An executed Document Acknowledgement and Contact Information letter from the Respondent (executed by the contact person (“**Respondent Representative**”) for all future communication between the Authority and the Respondent). This letter must strictly follow the form attached to this RFQ as Appendix B.
 - **Part 2: Background & Team Information (15 pages maximum)**

Respondents should address all areas referred to in the Evaluation Criteria set out in Section 3 of this RFQ, under the heading “Background & Team Information”.
 - **Part 3: Financial Capabilities (10 pages maximum)**

Respondents should address all areas referred to in the Evaluation Criteria set out in Section 3 of this RFQ, under the heading “Financial Capabilities”.
 - **Part 4: Technical & Operational Capabilities (50 pages maximum)**

Respondents should address all areas referred to in the Evaluation Criteria set out in Section 3 of this RFQ, with respect to “Technical Capabilities”.
 - **Part 5: Safety Performance (No page limit)**

Respondents should submit copies of the documents required by Section 3 of this RFQ with respect to safety performance. If not applicable, a Respondent should present a document explaining the reasons for not submitting such documents. Respondents must demonstrate (a) their ability to address and resolve safety issues, and (b) their knowledge of safety strategies and methodologies.

4.3 Reporting of Material Adverse Change

Prior to the issuance of the RFP documents, the Authority and PREPA may, in their discretion, request that a Respondent confirm that there have been no material changes to the information submitted with respect to the Respondent and/or any Team Member in the relevant SOQ. If there have been any material changes to the submitted information, the Respondent must provide details of such changes in accordance with any requirements the Authority or PREPA may impose at that time. The PPP Committee will evaluate the information



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submitted by the Respondent in accordance with the evaluation criteria set out in Section 3 of this RFQ, and may revise the results of the Respondent's evaluation.

4.4 SOQ Submission Instructions

The Respondent must submit one originally executed SOQ, with signatures in blue ink and marked as "Original", and four copies along with one copy in portable document format (PDF) on a CD or USB flash drive. **A physical copy of the original SOQ must be delivered no later than the Submission Deadline, December 5, 2018 at 5:00 pm AST.** Respondents should not submit promotional materials as part of their SOQs and are strongly encouraged not to submit information that is not required by this RFQ. Respondents are strongly encouraged to be succinct in their SOQs. Respondents must limit their SOQs, or each component of their SOQs, to the maximum number of pages indicated in Section 4.2 of this RFQ. The PPP Committee will not review pages submitted in excess of the maximum number of pages indicated for such item. The SOQ must be labeled as follows:

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Puerto Rico Public-Private Partnerships Authority

Puerto Rico Electric Power T&D System PPP SOQ Submitted by (*Respondent's name and Address*)

The SOQ must be delivered to:

Puerto Rico Electric Power T&D System PPP

Puerto Rico Public-Private Partnerships Authority

Attn: Omar J. Marrero, Esq. — Executive Director

Puerto Rico Fiscal Agency and Financial Advisory Authority Building

(former GDB Building), 3rd Floor Roberto Sánchez Vilella Government Center, De Diego Avenue

San Juan, PR 00940-2001

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4.5 Confidentiality of SOQ

All SOQs will become the property of the Authority and may become public in accordance with applicable law, except for documents or information submitted by Respondents that are trade secrets, proprietary information or privileged or confidential information of the Respondents. Respondents are advised to review the confidentiality and publication provisions contained in Sections 9(i) and 9(j) of the PPP Act and Section 9.3 of the PPP Regulation. In order to ensure that documents identified by Respondents as "confidential" or "proprietary" will not be subject to disclosure under the PPP Act, Respondents must label such documents as "confidential" or "proprietary," provide a written explanation of why such labeled documents are "confidential" or "proprietary," including why the disclosure of the information would be commercially harmful, specifically refer to any legal protection currently enjoyed by such information and why the disclosure of such information would not be necessary for the protection of the public interest, and request that the documents so labeled be treated as confidential by the PPP Committee according to the process described in the following paragraph.



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If a Respondent has special concerns about confidential or proprietary information that it desires to make available to the PPP Committee prior to its SOQ, such Respondent may wish to:

- make a written request to the PPP Committee for a meeting to specify and justify proposed confidential or proprietary documents;
- make an oral presentation to the PPP Committee staff and legal counsel; and
- receive written notification from the PPP Committee accepting or rejecting confidentiality requests.

Failure to take such precautions prior to filing an SOQ may subject confidential or proprietary information to disclosure under Sections 9(i) and 9(j) of the PPP Act and/or Section 12.3 of the PPP Regulation.

The PPP Committee will evaluate all confidentiality requests according to the criteria indicated in the PPP Act and the PPP Regulation. The PPP Committee will determine whether or not the requested materials are exempt from disclosure. Upon such determination, the Authority will endeavor to maintain the confidentiality of any information that a Respondent indicates to be proprietary or a trade secret, or that must otherwise be protected from publication according to law, except as required by law or by a court order. In the event that the PPP Committee elects to disclose the requested materials, it will provide the Respondent notice of its intent to disclose, in which case the Respondent may request the immediate return of such materials prior to disclosure by the PPP Committee and they will thereafter form no part of the Respondent's submission. In no event will the Government, the Authority, the PPP Committee or PREPA be liable to a Respondent for the disclosure required by law or a court order of all or a portion of an SOQ filed with the Authority.

Upon execution of the PPP Contract, the PPP Committee is required to make public its report regarding the procurement process, which report will contain information related to the qualification, procurement, selection and negotiation process, and the information contained in the SOQ, except information that qualifies as trade secrets, confidential, proprietary or privileged information of the Respondent or its Team Members clearly identified as such by the Respondent, or information that must otherwise be protected from publication according to law, as may have been determined by the PPP Committee, unless otherwise required by law or by a court order.

4.6 Use of Confidential Information

Each Respondent must declare, and agree to be under an obligation to declare, that it does not have knowledge of or the ability to avail itself of confidential information of the Government, PREPA or the Authority relevant to the Project, except to the extent it has been expressly authorized by the Government, PREPA or the Authority. Such confidential information:

- will remain the sole property of the Government, the Authority or PREPA, as applicable, and the Respondent and its Team Members will treat it as confidential;
- may not be used by the Respondent or its Team Members for any other purpose other than submitting an SOQ, RFP submission or the performance of any subsequent agreement relating to the Project with the Government, the Authority or PREPA, as applicable;
- may not be disclosed by the Respondent or any Team Member to any person who is not involved in the Respondent's preparation of its SOQ, RFP submission or the performance of any subsequent agreement relating to the Project with the Government, the Authority or PREPA, as applicable, without prior written authorization from the party in respect of whom the confidential information relates;
- if requested by the Government, the Authority or PREPA, will be returned or destroyed, as appropriate, no later than ten calendar days after such request; and
- may not be used in any way that is detrimental to the Government, the Authority or PREPA.



Each Respondent and its Team Members will be responsible for any breach of the provisions of this Section 4.6 by any person to whom any of them discloses the confidential information. Each Respondent and its Team Members acknowledge and agree that a breach of the provisions of this Section 4.6 would cause the Authority, PREPA, the Government and/or their related entities to suffer loss which could not be adequately compensated by damages, and that the Authority, PREPA, the Government and/or any related entity may, in addition to any other remedy or relief, enforce any of the provisions of this Section 4.6 upon submission of the Respondent's SOQ to a court of competent jurisdiction for injunctive relief without proof of actual damage to the Authority, PREPA, the Government or any related entity.

The provisions in this Section 4.6 will survive any cancellation of this RFQ or the RFP and the conclusion of the RFQ Process and the RFP Process.

4.7 Conflicts of Interest and Ineligible Persons

Each Respondent Representative submitting an SOQ on behalf of such Respondent and the Team Members of such Respondent must declare and continue to be under an obligation to declare all Conflicts of Interest or any situation that may be reasonably perceived as a Conflict of Interest that exists now or may exist in the future. A "**Conflict of Interest**" includes any situation or circumstance where in relation to the Project, the Respondent submitting an SOQ or any Team Member of such Respondent has other commitments, relationships or financial interests that:

- (a) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of the Authority's or PREPA's independent judgment; or
- (b) could or could be seen to compromise, impair or be incompatible with the effective performance of its obligations under the PPP Contract.

In connection with its SOQ, each Respondent and each Team Member will:

- (a) avoid any Conflict of Interest in relation to the Project;
- (b) disclose to the Authority and to PREPA without delay any actual or potential Conflict of Interest that arises during the RFQ Process or at any point in the procurement process; and
- (c) comply with any requirements prescribed by the Authority and PREPA to resolve any Conflict of Interest.

Each Respondent is responsible for ensuring that all persons engaged to provide any type of assistance in connection with the Project are in compliance with the provisions of the Ethics Guidelines and, to the extent any question exists as to compliance with the Ethics Guidelines, the Respondent should consult with the Authority.

In addition to all contractual or other rights or rights available at law or in equity or legislation, the Authority and PREPA may immediately exclude a Respondent or any of its Team Members from further consideration or remove the Respondent or any Team Member from the RFQ Process if:

- (a) the Respondent knew, or reasonably should have known, and fails to disclose an actual or potential Conflict of Interest;
- (b) the Respondent submitting an SOQ or a Team Member of such Respondent fails to comply with any requirements prescribed by the Authority or PREPA to resolve a Conflict of Interest; or
- (c) the Respondent's Conflict of Interest issue cannot be resolved.

Pursuant to Section 8.1 of the PPP Regulation, any person, by virtue of its participation in this RFQ Process, authorizes the Authority to apply to the relevant competent governmental authority to obtain further information



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regarding a prospective Respondent and in particular, details of convictions of the offenses listed in Section 9(c)(ii) of the PPP Act if the PPP Committee considers it necessary for its selection or evaluation process.

4.8 RFQ Miscellaneous Instructions

Addenda to RFQ

The Authority reserves the right to amend this RFQ at any time. All amendments to this RFQ will be described in written addenda. Copies of each addendum will be available at the Authority's website: <http://www.p3.pr.gov>. Respondents are encouraged to review the Authority's web page regularly. All addenda will become part of this RFQ. In the event of any conflict in the wording or any issue of interpretation, addenda, when issued, will take priority over the original wording in this RFQ and any wording in prior addenda. Each Respondent will, in its SOQ, acknowledge receipt of each addendum. Each Respondent is solely responsible to ensure that it and its Team Members have received all communications issued by the Authority and PREPA. A failure to obtain any such communication is at the sole and absolute risk of the Respondent and its Team Members, and the Authority and PREPA accept no responsibility for the failure of any Respondent or Team Member to receive or obtain all RFQ information (including addenda). Each response to this RFQ is deemed to be made on the basis of the complete RFQ, as amended by any addenda, issued prior to the Submission Deadline.

Withdrawal of SOQs

A Respondent may withdraw an SOQ by delivering to the Authority a written request for withdrawal prior to the Submission Deadline at the address for delivery of SOQs set forth in Section 4.4 of this RFQ. Any such withdrawal does not prejudice the right of a Respondent to submit another SOQ prior to the Submission Deadline.

4.9 Disclaimer

The information provided in this RFQ, or any other written or oral information provided by the Authority, PREPA, the PPP Committee, the Government or their respective officers, employees, advisors, counsel or consultants in connection with the Project or the selection process is provided for the convenience of the Respondents only. Respondents and their Team Members will make their own conclusions as to such information. Oral explanations or instructions from officials, employees, advisors, counsel or consultants of the Authority, PREPA, the PPP Committee or any Puerto Rico public agency will not be considered binding on the Authority, PREPA, the PPP Committee or the Government. The Authority, PREPA, the PPP Committee, the Government and their respective officers, employees, advisors, counsel and consultants make no representation or warranty as to any information provided in connection with this RFQ Process or the RFP Process. The accuracy and completeness of such information is not warranted by any of them and none of them will have any liability in connection with such information or the selection process, all of which liability is expressly waived by each Respondent and each Team Member of such Respondent. This RFQ is not an offer to enter into any contract of any kind whatsoever.

4.10 Reservation of Rights

In furtherance of the Authority's mission, the PPP Committee reserves the right to reject any and all SOQs, to waive technical defects, irregularities or any informality in SOQs, and to accept or reject any SOQs in its sole and absolute discretion. The PPP Committee also reserves the right to postpone the date on which SOQs are required to be submitted, or to take any other action it may deem in the best interests of the Authority and PREPA.



In addition, the Authority and PREPA reserve all rights (which rights will be exercisable by the Authority and PREPA in their sole and absolute discretion) available to them under applicable laws and regulations, including, without limitation, with or without cause and with or without notice, the right to:

- (a) modify the procurement process to address applicable law and/or the best interests of the Authority, PREPA and the Government;
- (b) develop the Project in any manner that they deem necessary and change the limits, scope and details of the Project;
- (c) if the Authority and PREPA are unable to negotiate a PPP Contract to their satisfaction with a Private Partner, terminate the process or pursue other alternatives relating to the Project, or exercise such other rights as they deem appropriate;
- (d) cancel the procurement process, as applicable, in whole or in part, at any time prior to the execution by PREPA of the PPP Contract, without incurring any cost, obligation or liability whatsoever;
- (e) issue a new request for qualification after withdrawal of this RFQ;
- (f) reject or disqualify any and all SOQs and responses received at any time for any reason without any obligation, compensation or reimbursement to any existing or prospective Respondent or Team Member;
- (g) modify all dates, deadlines, process, schedule and other requirements set out, described or projected in this RFQ;
- (h) terminate evaluations of responses received at any time;
- (i) exclude any Respondent from submitting any response to this RFQ based on the failure to comply with any requirements;
- (j) issue addenda, supplements and modifications to this RFQ;
- (k) require direct confirmation of information furnished by a Respondent, additional information from a Respondent concerning its response or additional evidence of qualifications to perform the work described in this RFQ;
- (l) consider, in the evaluation of any SOQ, any instances of poor performance by a Respondent, Team Member or Key Individual that any of the Authority, PREPA or the Government may have experienced or experienced by a third party, whether one of the included references or otherwise;
- (m) seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFQ;
- (n) add or delete Respondent responsibilities from the information contained in this RFQ or any subsequent process instruments;
- (o) negotiate with any party without being bound by any provision in its response;
- (p) waive any deficiency, defect, irregularity, non-conformity or non-compliance in any response to this RFQ or permit clarifications or supplements to any response to this RFQ, and accept such response even if such deficiency, defect, irregularity, non-conformity or non-compliance would otherwise render the response null and void or inadmissible;
- (q) add or eliminate facility expansion to or from the Project;



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(r) incorporate this RFQ or any Respondent's response to this RFQ or portion thereto as part of the RFP Process or any formal agreement with a Private Partner; and

(s) exercise any other right reserved or afforded to the Authority and PREPA under the PPP Act, the PPP Regulation, this RFQ or applicable law.

This RFQ does not commit either the Authority or PREPA to enter into a contract or proceed with the Project as described herein. The Authority, PREPA and the Government assume no obligations, responsibilities or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFQ, or in considering or making any submission. All of such costs will be borne solely by each Respondent.

4.11 Limitation of Damages

Each Respondent, by submitting an SOQ, agrees that in no event will the Authority, PREPA, the PPP Committee, the Government or any of their respective directors, officers, employees, advisors, counsel or representatives be liable, under any circumstances, for any claim, demand, liability, damage, loss, suit, action or cause of action, whether arising in contract, tort or otherwise, and all costs and expenses relating thereto (each, a "Claim"), or to reimburse or compensate the Respondent, any Team Member or their respective directors, officers, employees, advisors, counsel, accountants and other consultants and representatives, in any manner whatsoever, including, without limitation, any costs of preparation of the SOQ or the response to the RFP, loss of anticipated profits, loss of opportunity or for any other matter. Without in any way limiting the above, each Respondent and Team Member of such Respondent specifically agrees that it will have absolutely no Claim against the Authority, PREPA, the PPP Committee or the Government or any of their respective directors, officers, employees, advisors, counsel or representatives if any such party for any reason whatsoever:

- does not select a list of Qualified Respondents;
- suspends, cancels or in any way modifies the Project or the solicitation process (including modification of the scope of the Project or modification of this RFQ or both);
- accepts any compliant or non-compliant response or selects a list of one or more Qualified Respondent(s);
- under the terms of this RFQ permits or does not permit a Restricted Party to advise, assist or participate as part of a Respondent or its Team Members; or,
- breaches or fundamentally breaches a contract or legal duty of the Authority, PREPA, the PPP Committee or the Government, whether express or implied, and each Respondent and each Team Member waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, if the Respondent is not selected as a Qualified Respondent for any other reason whatsoever.

4.12 Judicial Review

Judicial review of the selection and award process for qualifications must be pursued in accordance with Section 20 (Judicial Review Procedures) of the PPP Act. Only those Respondents who comply with the applicable requirements set forth in Section 20 of the PPP Act may request judicial review of a final determination that a Respondent is not qualified. Mechanisms for requesting reconsideration before the Authority or PREPA will not be available.

Section 20 establishes the period within which to seek judicial review, for the Puerto Rico Court of Appeals to address the writ of review, and to seek a writ of certiorari before the Puerto Rico Supreme Court. Section 20 also prescribes the notification requirements and the consequences of seeking such judicial remedies, including that if either the Puerto Rico Court of Appeals or the Puerto Rico Supreme Court grants a writ of review or writ of



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certiorari, as applicable, the procedures for the qualification of respondents, or for the evaluation or selection of proposals or negotiation of the PPP Contract by the PPP Committee will not be stayed.

The qualification determinations of the PPP Committee and the approval of the PPP Contract by the Governor or the official onto whom he/she delegates, as provided under Section 9(g)(ii)-(v) of the PPP Act will only be overturned upon a finding of manifest error, fraud or arbitrariness. The non-prevailing party will defray the expenses incurred by the other parties involved in judicial review proceedings under Section 20 of the PPP Act. The Respondent that seeks judicial review may not, under any circumstance, as part of its remedies, claim the right to be redressed for indirect, special or foreseeable damages, including lost profits.

The above is only a succinct summary of Section 20 of the PPP Act and Respondents should review and understand such judicial review provisions.





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APPENDIX A: FORM OF RESPONDENT AND TEAM MEMBERS CERTIFICATION

[Letterhead of each Respondent or Team Member, as applicable]

Mr. Omar J. Marrero, Esq. — Executive Director
Puerto Rico Public-Private Partnerships Authority
Roberto Sánchez Vilella Government Center
De Diego Avenue, Parada 22
San Juan, PR 00940-2001 USA

Re: Puerto Rico Electric Power T&D System PPP - Request for Qualifications

Ladies and Gentlemen:

We have carefully reviewed the Request for Qualifications dated October 31, 2018 (“**RFQ**”) issued by the Puerto Rico Public-Private Partnerships Authority and all other documents accompanying or made a part of the RFQ. Capitalized terms used in this certificate have the meanings given to them in the RFQ.

We acknowledge and agree to comply with all terms and conditions of the RFQ, the attached Statement of Qualifications (“**SOQ**”) and all enclosures thereto. Without limitation, we specifically acknowledge the disclaimer contained in Section 4.9 of the RFQ and the limitation of damages contained in Section 4.11 of the RFQ.

We certify that the information contained in the attached SOQ is true and correct. We further certify that the individual who has signed and delivered this certification is duly authorized to submit the attached SOQ on behalf of the Respondent or Team Member, as applicable, as its acts and deed and that the Respondent or Team Member, as applicable, is ready, willing and able to participate in the RFP Process and perform if awarded the PPP Contract.

We further certify that we are *[describe the type of entity or entities (corporation, partnership, LLC, etc.)]* organized in *[indicate the jurisdiction of organization]* and the entity contemplated by Respondent and Team Members to be the one that shall execute the PPP Contract shall have no impediment to, and shall be authorized to do business in Puerto Rico and to enter into a contractual relationship with government entities in Puerto Rico, as well as to comply with any other applicable Puerto Rico or U.S. laws and/or requirements.

We further certify that our directors, officers, controlling shareholders or subsidiaries, parent company and, in the case of a partnership, our partners, and any person or entity that may be considered an alter ego or the passive economic agent of the Respondent or Team Member, as applicable (each, a “**Covered Party**”), have not been convicted, have not entered a guilty plea and have not been indicted, and probable cause has not been found for their arrest, in any criminal proceeding in Puerto Rico, the rest of the U.S. or any foreign jurisdiction, for (i) any of the crimes referenced in Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, (ii) any of the crimes typified in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal Code or (iii) any of the crimes listed in Act No. 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government, or under the U.S. Foreign Corrupt Practices Act; no Covered Party is under investigation in any legislative,



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judicial or administrative proceedings, in Puerto Rico, the rest of the U.S. or any other jurisdiction. The Respondent and Team Members are in compliance with all federal, state, local and foreign laws applicable to the Respondent or Team Member(s) that prohibit corruption or regulate crimes against public functions or public funds, including the U.S. Foreign Corrupt Practices Act.

We further certify that we shall continue to comply at all times with laws which prohibit corruption or regulate crimes against public functions or funds, as may apply to the Respondent or any Team Member, as applicable, whether federal, state or Government statutes, including the Foreign Corrupt Practices Act.

We further certify that no officer or employee of the Authority, PREPA, the PPP Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico who participates in the selection process described in, or negotiations in connection with, the RFQ (nor any member of their families) has an economic interest in or is connected with the *[Respondent or Team Member, as applicable]*, and no officer or employees of the Authority, PREPA, the PPP Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico (nor any member of their families) has directly or indirectly participated with the *[Respondent or Team Member, as applicable]* in the preparation of its SOQ.

We further certify that we are in compliance with the provisions of Act No. 2 of 2018, also known as the Anti-Corruption Act 2018.

We further certify that we have reviewed the provisions of the Authority's Guidelines for the Evaluation of Conflicts of Interest and Unfair Advantages in the Procurement of Public-Private Partnership Contracts, available on the Authority's website: <http://www.p3.pr.gov>, and that we are in compliance therewith.

We further certify that this SOQ is made without prior understanding, agreement, connection, discussion or collusion with any other person, firm or corporation submitting or participating in the submission of a separate SOQ or any officer, employee or agent of the Authority, PREPA, the PPP Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico; and that the undersigned executed this Respondent and Team Members Certificate with full knowledge and understanding of the matters herein contained and was duly authorized to do so.

We further certify that Respondent and Team Members shall not, other than as permitted in the RFQ, attempt to communicate in relation to the RFQ, directly or indirectly, with any representative of the Authority, PREPA, the PPP Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico, including any Restricted Parties, or any director, officer, employee, agent, advisor, staff member, counsel, consultant or representative of any of the foregoing, as applicable, for any purpose whatsoever, including for purposes of: (a) commenting on or attempting to influence views on the merits of the Respondent's and Team Members' SOQ, or in relation to their SOQ; (b) influencing, or attempting to influence, the outcome of the RFQ process, or of the competitive selection process, including the review and evaluation of SOQs or the selection of the Qualified Respondents; (c) promoting the Respondent and Team Members or their interests in the Project, including in preference to that of other Respondents or Team Members; (d) commenting on or criticizing aspects of the RFQ, the competitive selection process, or the Project including in a manner which may give the Respondent or its Team Members a competitive or other advantage over other Respondents or their respective Team Members; and (e) criticizing the SOQs of other Respondents.

To the extent the Authority and PREPA determine to submit any of the costs incurred under the PPP Contract for federal reimbursement, the Respondent shall be required to comply with all applicable federal certification and requirements.

Federal regulations restrict PREPA from contracting with parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. The Respondent certifies that:

1. Neither it nor any of its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905), are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935) from participation in this transaction by any federal department or agency. SAM Exclusions is the list



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maintained by the General Services Administration that contains the name of parties excluded or disqualified, as well as parties declared ineligible under certain statutory or regulatory authority. The Respondent may verify its status and the status of its principals, affiliates and any actual or anticipated Team Members at www.SAM.gov.

2. The Respondent agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this proposal is valid and throughout the period of any contract that may arise from this proposal. The Respondent further agrees to include a provision requiring such compliance in its lower tier covered transactions.
3. This certification is a material representation of fact relied upon by the Authority and PREPA. If it is later determined that the Respondent did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Authority and PREPA, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

The Respondent further certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Respondent or any Team Member, to any person for influencing or attempting to influence an officer or employee of an agency, a member of the United States Congress, an officer or employee of the United States Congress or an employee of a member of the United States Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of the United States Congress, an officer or employee of the United States Congress or an employee of a member of the United States Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned Respondent and Team Members acknowledge that any violation or misrepresentation with respect to the above will prohibit their participation in any procurement process under the PPP Act and other applicable laws of Puerto Rico and, therefore, will be disqualified from participating hereunder.

The attached SOQ shall be governed by and construed in all respects according to the laws of Puerto Rico and the terms of the RFQ.

Our business address is:

[Insert business address]



GOVERNMENT OF PUERTO RICO
Puerto Rico Public-Private Partnerships Authority



Yours faithfully,

[Insert appropriate signature block for signature by a person duly authorized to bind the Respondent or Team Member]





GOVERNMENT OF PUERTO RICO
Puerto Rico Public-Private Partnerships Authority



APPENDIX B: FORM OF DOCUMENT ACKNOWLEDGEMENT & CONTACT INFORMATION

[Letterhead of the Respondent]

Mr. Omar J. Marrero, Esq. — Executive Director
Puerto Rico Public-Private Partnerships Authority
Puerto Rico Fiscal Agency and Financial Advisory Authority Building, 3rd Floor
Roberto Sánchez Vilella Government Center
De Diego Avenue, Parada 22
San Juan, PR 00940-2001 USA

Ladies and Gentlemen:

I, *[Name of Respondent Representative]* in my capacity as *[Title]* of *[Name of the Respondent]*, acknowledge on behalf of the Respondent and each Team Member that the Respondent (for itself and each anticipated Team Member) was able to access the Puerto Rico Public-Private Partnerships Authority (the "Authority") web site and downloaded the following documents regarding the Request for Qualifications ("RFQ") for the Puerto Rico Electric Power T&D System PPP (the "Project"), issued by the Authority on October 31, 2018. Our contact information for further notifications is included below. We accept the transmission of such additional notifications via electronic communications, but acknowledge and accept that we shall have the responsibility of periodically checking in the Public-Private Partnership Authority website (<http://www.p3.pr.gov>) for any and all official communications regarding the RFQ and other stages of the procurement process for the Project.

Document/File Title

Date Received/Downloaded

Respondent Representative Signature

Date

Contact Information: *[Respondent Representative name, title, company, address, electronic mail, telephone number]*